

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

BENJAMIN JUSTIN BROWNLEE,

Plaintiff,

v.

J. OVERSTREET,

Defendant.

No. 2:21-CV-0610-JAM-DMC-P

ORDER

Plaintiff, a prisoner proceeding pro se, brings this civil rights action under 42 U.S.C. § 1983.

On October 13, 2021, the Court issued findings and recommendations that Plaintiff's first amended complaint be dismissed for failure to state a claim. See ECF No. 14. On October 25, 2021, Plaintiff filed timely objections to the Court's findings and recommendations. See ECF No. 15. In the objections, Plaintiff appears to allege additional facts which, if considered with the facts alleged in the first amended complaint, could potentially state a claim against Defendant Overstreet, the only defendant named in the first amended complaint. See ECF No. 15. Because the Court cannot consider multiple filings in order to make Plaintiff's pleading complete, the Court will defer submission of the October 13, 2021, findings and recommendations to the District Judge and provide Plaintiff the opportunity to file a second

1 amended complaint to state all of his allegations against Defendant Overstreet in a single
2 pleading. If Plaintiff fails to file a second amended complaint within the time permitted, the
3 Court will submit the October 13, 2021, findings and recommendations to the District Judge
4 without further opportunity for objection. If Plaintiff files a second amended complaint within
5 the time permitted, the Court will vacate the October 13, 2021, findings and recommendations
6 and separately address the sufficiency of the second amended complaint.

7 Accordingly, IT IS HEREBY ORDERED that:

8 1. The Clerk of the Court is directed to terminate M. Bobbala, whom Plaintiff
9 has not named in the operative first amended complaint, as a defendant to this action; and

10 2. Within 30 days of the date of this order, Plaintiff may file a second
11 amended complaint stating all of his factual allegations against Defendant Overstreet.

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13 **Dated: December 29, 2021**



14 DENNIS M. COTA
15 UNITED STATES MAGISTRATE JUDGE
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